



23334.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gerald P. Sullivan

Serial No.: 09/624,732

Filed: July 25, 2000

**For: APPARATUS AND METHOD FOR
CREATING AND MANAGING A
FINANCIAL INSTRUMENT**Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Art Unit: 2165

Examiner: James Zurita

RECEIVED

JUL 08 2003

GROUP 3600**DECLARATION UNDER 37 C.F.R. § 1.131²**

I, Travis L. Gering, a citizen of the United States and residing at *127 Prospect Pl.*
South Orange, N.J., declare and state as follows:

1. That I am a lawyer with a practice focused on Corporate and Securities. I obtained a J.D. from Rutgers University School of Law. I am admitted to the bars of New York and New Jersey. Prior to private practice, I was in-house counsel to a NASDAQ listed neural networks company.

2. That I am familiar with the EDGAR data base as maintained by the Securities and Exchange Commission ("SEC") and have used extensively this search engine to find financial data as would be useful in my practice.

3. That I am also familiar with and use in my practice on a regular basis the following other search engines: 1) Findlaw; LEXIS/NEXIS; and WESTLAW.

4 That at the request of Gerald P. Sullivan, the inventor of the subject application, I conducted searches of the SEC EDGAR, Findlaw, LEXIS/NEXIS and the WESTLAW search engines. I performed a plurality of searches using each of the aforementioned search engines. In each search, I used each of the following terms, one at a time in each of the named search engines: 1) mutual; 2) funds; 3) allocation; 4) allocate; 5) industry; and 6) percent.

5. That the results of my search are set out in the attached chart, which is attached hereto and marked EXHIBIT.

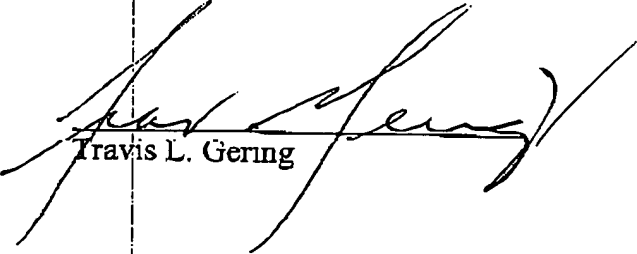
6. That I understand that the Examiner in charge of the subject application has suggested that a search of one of the EDGAR, LEXIS/NEXIS and WESTLAW engines using one of the named search terms, would be an effective strategy to locate a document entitled "Pre-Effective Amendment to Registration of an Open-End and Management Investment Company," Industry Leaders Fund, Form N-1a/a, SEC Files 333-62893,811-08989, Accession Number 950130-98-5709 ("SEC Filing"). The SEC Filing was submitted to the SEC in connection with the Industry Leaders Fund.

7. That, in my opinion and based on the searches that I conducted (as described above), these searches would be unable to identify the SEC Filing or any other document describing the Leaders Industry Fund, because the large number of hits for each of the used search terms would effectively hide the SEC Filing or other document describing the Industry Leaders Fund.

8. That this Declaration is being submitted to the United States Patent and Trademark Office prior to Final Rejection.

I HEREBY DECLARE THAT ALL STATEMENTS MADE HEREIN OF MY OWN KNOWLEDGE ARE TRUE AND THAT ALL STATEMENTS MADE ON INFORMATION AND BELIEF ARE BELIEVED TO BE TRUE; AND FURTHER THAT THESE STATEMENTS WERE MADE WITH THE KNOWLEDGE THAT WILLFUL FALSE STATEMENTS AND THE LIKE SO MADE ARE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH, UNDER SECTION 1001 OF TITLE 18 OF THE UNITED STATES CODE, AND THAT SUCH WILLFUL FALSE STATEMENTS MAY JEOPARDIZE THE VALIDITY OF THE APPLICATION OR ANY PATENT ISSUED THEREON.

Executed in New York City on June 23, 2003.



Travis L. Gering



11 Hanover Square, 19th Floor
New York, NY 10005
Tel. 212 509 6050
Fax 212-509-9559

Exhibit

WUERSCH & GERING LLP
ATTORNEYS AT LAW

To: Gerry Sullivan
Claremont Investment Partners LLC

From: Travis L. Gering

Date: June 10, 2003

Re: Results of Web Searches

Search Term	Findlaw Search Engine	SEC EDGAR Search Engine	LEXIS7 NEXIS Search Engine	WESTLAW Search Engine	
mutual	7,730,000		3,528	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]
funds	21,500,000		8,526	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]
allocation	5,750,000		1,891	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]
allocate	2010000		1,891	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]
industry	46,900,000		6,107	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]
percent	26,800,000		2,491	In Excess of 3,000 (Exact number of hits not provided above 3,000)	[Same General Web Hits as Findlaw; no searches in case law]